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| RETURN DATE: OCTOBER 17, 2017 | : | SUPERIOR COURT |
| LINDA SOBIN, ADMINISTRATRIX OF THE ESTATE OF PETER SOBIN (DECEASED) AND LINDA SOBIN INDIVIDUALLY | : | JUDICIAL DISTRICT OF HARTFORD |
| V. | : | AT HARTFORD |
| ORTHOPAEDIC SPORTS SPECIALIST, P.C. | : | SEPTEMBER 5, 2017 |

COMPLAINT

COUNT ONE:

**LINDA SOBIN, ADMINISTRATRIX OF THE ESTATE OF PETER SOBIN,
(DECEASED) v. ORTHOPAEDIC SPORTS SPECIALIST, P.C.**

1. On or about September 28, 2016, LINDA SOBIN was appointed ADMINISTRATRIX of the Estate of PETER SOBIN, Deceased, by the Court of Probate, District of Newington No. PD 07. a copy of said appointment is attached hereto as Exhibit A.
2. This wrongful death claim is being brought pursuant to Connecticut General Statute §52-555.
3. At all times mentioned herein, the defendant, ORTHOPAEDIC SPORTS SPECIALIST, P.C., was a professional corporation licensed to do business in the State of Connecticut comprised of physicians and surgeons and other healthcare professionals specializing in orthopedic medicine and surgery with its principal place of business in Glastonbury, Connecticut.

4. At all times mentioned herein, Michael Joyce, a Physician and Surgeon, was a servant, agent, apparent agent and/or employee of the defendant, ORTHOPAEDIC SPORTS SPECIALIST, P.C.
5. At all times mentioned herein, Erik T. Libby, a PA-C, was a servant, agent, apparent agent and/or employee of the defendant, ORTHOPAEDIC SPORTS SPECIALIST, P.C.
6. Commencing on or about August 19, 2015 and continuously to on or about October 1, 2015, for the same or similar condition, ORTHOPAEDIC SPORTS SPECIALIST, P.C. and/or their servants, agents, apparent agents and/or employees, undertook the care, treatment, monitoring, diagnosing and supervision of the plaintiff's decedent, PETER SOBIN.
7. While under the care, treatment, monitoring, diagnosing and supervision of ORTHOPAEDIC SPORTS SPECIALIST, P.C. and/or their servants, agents, apparent agents and/or employees, PETER SOBIN suffered severe, serious, painful and permanent injuries all leading to his death on October 1, 2015, as herein after set forth in paragraph 9.
8. The said injuries and death suffered by PETER SOBIN were caused by the failure of ORTHOPAEDIC SPORTS SPECIALIST, P.C. and/or their servants, agents, apparent agents and/or employees, to exercise reasonable care under all of the facts and circumstances then and there present in that they:
 - a. failed to adequately and properly care for, treat, diagnose and supervise PETER SOBIN;
 - b. failed to recognize the significant symptoms of PETER SOBIN'S complaints on September 25, 2015 and September 28, 2015;

- c. failed to properly and thoroughly assess PETER SOBIN'S left knee/leg on September 25, 2015 and September 28, 2015;
- d. failed to perform an adequate evaluation of PETER SOBIN'S left knee/leg on September 25, 2015 and September 28, 2015;
- e. failed to identify a significant change from PETER SOBIN'S baseline in the left extremity;
- f. failed to perform a venous doppler study and/or ultrasound of the left leg on September 25, 2015 and September 28, 2015;
- g. failed to identify the significance of PETER SOBIN'S worsening left leg symptoms post operatively: pain, swelling, bruising, redness;
- h. failed to identify the importance of the physical therapist calling the office regarding her concerns regarding changes in PETER SOBIN'S left leg;
- i. failure to timely consult with physicians within the office;
- j. failed to recognize signs and symptoms of a deep vein thrombosis;
- k. failed to provide other health care professionals who possess the requisite knowledge, skill and experience to adequately and properly care for, treat, diagnose, monitor and supervise PETER SOBIN;
- l. failed to promulgate and/or enforce rules, regulations, standards and protocols for the care and treatment of patients such as PETER SOBIN.

9. As a result of the carelessness and negligence of ORTHOPAEDIC SPORTS SPECIALIST, P.C. and/or their servants, agents, apparent agents and/or employees, PETER SOBIN suffered the following severe, serious, painful and permanent injuries:

- a. worsening pain following left total knee replacement;
- b. left leg deep vein thrombosis;

- c. antemortem pain & suffering;
- d. acute shortness of breath;
- e. hypoxia;
- f. asystole;
- g. untimely death;
- h. acute pulmonary thromboembolism;
- i. loss of life pleasures;
- j. emotional distress for family;
- k. psychological, physiological, neurological and death sequelae
- l. death.

10. As a result of the aforementioned injuries and death, PETER SOBIN has been permanently deprived of his ability to carry on and enjoy life's activities and his earning capacity has been forever destroyed.
11. As further result of the aforementioned injuries and death the ESTATE OF PETER SOBIN has incurred expenses for medical care and treatment and funeral costs all to its financial loss.
12. On or about July 20, 2017, pursuant to Connecticut General Statutes § 52-190 (a) (b), an automatic ninety (90) day extension of the statute of limitations was granted with the Superior Court. A copy of said petition is attached hereto as Exhibit B.

COUNT TWO:

**LINDA SOBIN v. ORTHOPAEDIC SPORTS SPECIALIST, P.C.
(LOSS OF CONSORTIUM AND COMPANIONSHIP)**

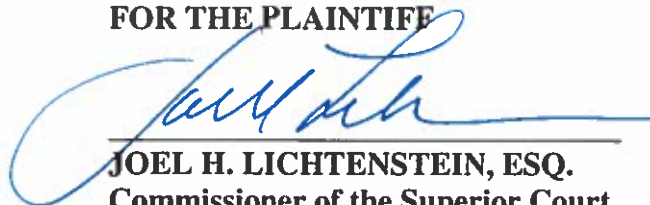
- 1-9. Paragraphs 1 through 9 of COUNT ONE are hereby incorporated and made paragraphs 1 through 9 of COUNT TWO.
10. At all times mentioned herein, the plaintiff, LINDA SOBIN, was the wife of PETER SOBIN.
11. As a result of the aforesaid occurrences to PETER SOBIN, LINDA SOBIN has been deprived of the companionship and society of her husband all to her damage.

WHEREFORE, THE PLAINTIFF, LINDA SOBIN, ADMINISTRATRIX OF THE ESTATE OF PETER SOBIN, (DECEASED) AND LINDA SOBIN, INDIVIDUALLY, HEREBY CLAIMS MONETARY DAMAGES IN EXCESS OF FIFTEEN THOUSAND & 00/100 (\$15,000.00) DOLLARS AND THIS MATTER IS WITHIN THE JURISDICTION OF THIS COURT.

Of this writ, with your doings thereon, make due service and return.

Dated at Bridgeport, Connecticut this 5TH day of September, 2017.

FOR THE PLAINTIFF



JOEL H. LICHTENSTEIN, ESQ.
Commissioner of the Superior Court
County of Fairfield

PLEASE ENTER THE APPEARANCE OF:

KOSKOFF, KOSKOFF & BIEDER, P.C.
350 FAIRFIELD AVENUE
BRIDGEPORT, CT 06604
TELEPHONE NO. (203) 336-4421
JURIS NO. 32250

RETURN DATE: OCTOBER 17, 2017

:

SUPERIOR COURT

**LINDA SOBIN, ADMINISTRATRIX
OF THE ESTATE OF PETER SOBIN
(DECEASED) AND LINDA SOBIN
INDIVIDUALLY**

:

**JUDICIAL DISTRICT
OF HARTFORD**

:

V.

:

AT HARTFORD

**ORTHOPAEDIC SPORTS
SPECIALIST, P.C.**

:


SEPTEMBER 5, 2017

CERTIFICATION

I, JOEL H. LICHTENSTEIN, hereby certify that I have made reasonable inquiry, as permitted by the circumstances, to determine whether there are grounds for a good faith belief that there has been negligence in the care and treatment of **PETER SOBIN, (DECEASED)** and affecting **LINDA SOBIN**. This inquiry has given rise to a good faith belief on my part that grounds exist for an action against the defendant, **ORTHOPAEDIC SPORTS SPECIALIST, P.C.** and/or their servants, agents, apparent agents and/or employees.

THE PLAINTIFF,

BY:


JOEL H. LICHTENSTEIN, ESQ.
KOSKOFF, KOSKOFF & BIEDER, PC
350 FAIRFIELD AVENUE
BRIDGEPORT, CONNECTICUT 06604
TELEPHONE NO: 203.336.4421
JURIS NO. 32250

PHYSICIAN'S OPINION
PURSUANT TO C.G.S., SECTION 52-190a

[NOT SUBJECT TO GENERAL DISCLOSURE]

Dear Mr. Lichtenstein:

Thank you for asking me to review the medical records of Peter Sobin. As you know, I am board certified in Orthopedic Surgery. I graduated from a prestigious United States medical school and did my residency training at a premier medical center. I have been in practice since 2001. I am the Director of Community Orthopedic Services. I am known as a reputable provider of orthopedic care. I partner with the hospital to provide patient focused treatment plans that encompass the whole orthopedic process, from initial diagnosis, surgery and through recovery. I have written many publications pertaining to my specialty. This case took place in 2015 and I am familiar with the standard of care, in 2015, for physicians practicing orthopedic surgery in the United States.

I have read and reviewed relevant medical records pertaining to Peter Sobin from the following sources:

- 1) Dr. David Grise
- 2) Dr. Michael Joyce
- 3) St. Francis Hospital & Medical Center
- 4) Physical Therapy Partners
- 5) Hartford Hospital

Peter Sobin was a 61-year old male who had a long history of osteoarthritis of the left knee and had failed conservative care. He therefore was a candidate for total knee replacement that was performed on September 15, 2015. Preoperatively the individual was given adequate information to provide informed consent, including the potential risks and complications of a total knee replacement.

According to the records, Mr. Sobin was admitted to St. Francis Hospital & Medical Center on September 15, 2015 and underwent an uneventful left total knee

replacement. He was appropriately discharged on medication to hopefully prevent deep vein thrombosis.

Although there is no documentation of this in the medical record, Mr. Sobin's family reports that Mr. Sobin was seen at the office of Dr. Michael Joyce by the Physician Assistant, Erik Libby, PA-C, on two consecutive postoperative occasions, September 25, 2015 and September 28, 2015. I have been advised that the patient's family states that Mr. Sobin was complaining of new onset pain in the left calf, swelling in the left calf and bruising. These new symptoms prompted Mr. Sobin to go to the office of his orthopedic surgeon to be evaluated. Once again, there are no medical records from those two office visits with Mr. Libby. There was no change in the post-operative plan and no diagnostic studies were ordered at that time.

On October 1, 2015, Mr. Sobin developed shortness of breath. He was transported to the hospital where he unfortunately expired. The autopsy revealed the cause of death as acute pulmonary thromboembolism.

Deep vein thrombosis is a well-known potential complication of total joint arthroplasty. It can lead to acute pulmonary embolism that can be a fatal event. While there is controversy as to the best method of prophylaxis for this complication, it is the standard of care to take measures to prevent DVT with a pharmacologic agent, as was observed in this case.

There is no controversy with regard to the importance of diagnosing a deep vein thrombosis and the need for vigorous medical management of the potentially fatal complication. If a patient who recently underwent total knee replacement presents with complaints of the acute onset of pain in the calf and swelling in the leg, a strong suspicion of DVT is aroused and urgent diagnostic ultrasound of the leg is indicated. The immediate implementation of treatment in the form of therapeutic, as opposed to prophylactic, anticoagulation is the standard of care. Prompt treatment of a DVT in the leg is necessary as proper care for the leg itself but also indicated to prevent the possible subsequent occurrence of pulmonary embolism, a potentially fatal event. It is my opinion with a reasonable medical certainty that if Mr. Sorbin did, in fact, present for

medical care with complaints as described, as his family alleges that he did, and no diagnostic efforts resulted, then this episode of care falls below the established standard for this situation. It is likely that had the correct diagnosis been made in a timely fashion, and treatment initiated in a timely fashion, Mr. Sobin would not only be alive today, but he also would be enjoying the benefit of a left total knee replacement.

Mr. Sobin's symptoms, as described by his family, required a higher level of concern for surgical complication, specifically DVT. If Dr. Michael Joyce was apprised of these symptoms, then he failed to meet the standard of care by not ordering appropriate testing based on Mr. Sobin's symptoms. It was Dr. Joyce's responsibility to explore the cause of Mr. Sobin's complaints of leg pain, leg swelling and bruising if he was made aware of them, as the family alleges that he was with the office visits that occurred on 9/25/2015 and again on 9/28/2015.

Based upon the information that has been provided to me regarding the occurrence of the undocumented office visits of 9/25/2015 and 9/28/2015, it is my opinion with a reasonable degree of medical certainty that there is evidence of medical negligence on the part of Dr. Michael Joyce and Orthopaedic Sports Specialist, P.C. in failing to respond appropriately to the symptoms described by Mr. Sobin during those office visits. The opinion stated herein is based upon the information available to me at this time. Should other information and evidence become available, I reserve the right to supplement and/or amend this opinion.

CONSULTANT'S OPINION
PURSUANT TO C.G.S., SECTION 52-190a

[NOT SUBJECT TO GENERAL DISCLOSURE]

Dear Mr. Lichtenstein:

Thank you for asking me to review the medical records of Peter Sobin. As you know, I am a certified physician assistant practicing in an orthopedic office. I have been working as a physician's assistant for over ten years in orthopedic surgery following graduation from an accredited Masters of Science degree program in Physician Assistant Studies and successfully passing the Physician Assistant National Certifying Examination. I am an active member of my state's Academy of Physician Assistants. In the office setting, I evaluate patients, take histories and perform physical examinations, order and interpret appropriate laboratory tests, order appropriate radiological and diagnostic imaging studies and incorporate all test results into formulating a working and differential diagnosis. I consult with various specialists in addition to ordering medications, performing a variety of procedures and admitting patients to the hospital or discharging them home.

This case took place in 2015 and involves care and treatment rendered to Mr. Sobin in the office of an orthopedic office by Erik T. Libby. You have advised me that Eric Libby is a certified physician assistant (PA-C). I am familiar with the standard of care as it relates to the care and treatment rendered by physician assistants practicing in an office setting, in 2015, in the United States.

I have read and reviewed the following medical records pertaining to Peter Sobin:

- 1) Dr. David Grise
- 2) Dr. Michael Joyce
- 3) St. Francis Hospital & Medical Center
- 4) Physical Therapy Partners
- 5) Hartford Hospital

Peter Sobin, was a 61-year old male whose past medical history included osteoarthritis, hypertension, hyperlipidemia and non-insulin dependent diabetic. He had

advanced osteoarthritis in his left knee and made the decision to seek surgical intervention from Dr. Michael Joyce. Mr. Sobin underwent extensive conservative treatment for years that included arthroscopic treatment, injection therapy, physical therapy, nonimpact exercise and activity modifications. Initially these treatments were successful but over the past several years the pain in his left knee became progressive. On August 19, 2015, Mr. Sobin had a pre-operative evaluation with Dr. Michael Joyce for upcoming knee replacement. Left leg x-rays performed on this day revealed end-stage osteoarthritis. Surgery was scheduled for September 15, 2015. The risks and complications of surgery were discussed and the perioperative treatment plan was reviewed.

Mr. Sobin was admitted to St. Francis Hospital & Medical Center on September 15, 2015 and underwent a total left knee replacement. The hospital documentation indicates Mr. Sobin tolerated the surgical procedure well. He remained stable post operatively and was discharged on September 17, 2015. Notations in the records state his left leg was neurovascularly intact and discussion of prevention of deep vein thrombosis prior to discharge.

Mr. Sobin began rehabilitation at Physical Therapy Partners on September 18, 2015. On September 25, 2015, the physical therapist documented discoloration behind his left knee with questionable redness. The documentation states a call was placed to Dr. Joyce's office with concerns of left leg bruising. I have been advised, following his physical therapy session, Mr. Sobin went to Dr. Joyce's office due to his left leg pain, left leg swelling and warmth in left calf area. PA Libby evaluated his leg and informed him it was normal and continue to use cold therapy on the swollen areas as well as the calf.

Mr. Sobin's next physical therapy appointment was on Monday, September 28, 2015. I have been informed his left leg symptoms progressed and he was not feeling well. Therefore, he returned to Dr. Joyce's office and was seen by PA Libby. He was told his leg appeared normal and he should return to the office on Thursday October 1, 2015. On October 1, 2015, he awoke with shortness of breath and EMS was called by his wife. He became diaphoretic, hypoxic and loss of pulse and had a witnessed arrest.

He died that morning at the hospital. The autopsy revealed the cause of death as acute pulmonary thromboembolism.

The records indicate, Mr. Sobin, was a compliant patient. He had two previous experiences with questionable deep vein thrombosis in 2009 and 2010 and was tested yielding negative results. He followed through with his care and treatment. Given Mr. Sobin's complaints of leg pain, calf swelling and bruising, PA Libby should have ordered a venous doppler study to be performed on his left leg. Under the circumstances of this patient having gone through a major surgery such as, joint replacement, it was reasonable for Mr. Sobin to receive testing and treatment for a possible deep vein thrombosis. He failed to meet the standard of care by not ordering appropriate testing based on his symptomatology. PA Libby had several opportunities to further explore Mr. Sobin's complaints of leg pain, leg swelling and bruising.

Given Mr. Sobin's left leg symptoms, PA Libby should have immediately recognized these findings as potential risks for a deep vein thrombosis and discussed this with Dr. Joyce. It would be reasonable to have performed an exam and ordered a venous doppler study. It is critical to timely diagnose and treat a deep vein thrombosis. Unfortunately, Mr. Sobin did not receive any testing and was sent home. He died before any testing was done and I feel the outcome would have been different if proper care and treatment was carried out. PA Libby departed from the accepted standard of care.

Based upon my review of the medical records, it is my opinion that there appears to be evidence of medical negligence on the part of Erik T. Libby, PA-C, Dr. Michael Joyce and Orthopaedic Sports Specialist, P.C. The opinion stated herein is based upon the information available to me at this time. Should other information and evidence become available, I reserve the right to supplement and/or amend this opinion.

EXHIBIT A

| | | |
|--|-------------------------------|---------------------|
| COURT OF PROBATE, Newington Probate Court | | DISTRICT NO. PD07 |
| ESTATE OF/IN THE MATTER OF | | DATE OF CERTIFICATE |
| Peter S Sobin, Late of Wethersfield, CT., deceased, AKA Peter Sturgis Sobin, AKA Peter Sobin (16-0222) | | September 28, 2016 |
| FIDUCIARY'S NAME AND ADDRESS | FIDUCIARY'S POSITION OF TRUST | DATE OF APPOINTMENT |
| Linda Sobin, 16 Straddle Hill, Wethersfield, CT 06109 | administratrix | September 28, 2016 |

The undersigned hereby certifies that the fiduciary in the above-named matter has accepted appointment, is legally authorized and qualified to act as such fiduciary because the appointment is unrevoked and in full force as of the above date of certificate.

This certificate is valid for one year from the date of the certificate.

Other limitation, if any, on the above certificate:

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of this Court on the above date of certificate.


Pamela B. Friedeberg, Clerk

Court
Seal

NOT VALID WITHOUT COURT OF PROBATE SEAL IMPRESSED

EXHIBIT B

| | | |
|---|---|----------------------------------|
| PETITION TO THE CLERK | : | SUPERIOR COURT |
| LINDA SOBIN, ADMINISTRATRIX OF THE ESTATE OF PETER SOBIN (DECEASED) AND LINDA SOBIN, (INDIVIDUALLY) AND ANY OTHER PLAINTIFFS YET TO BE IDENTIFIED | : | JUDICIAL DISTRICT OF HARTFORD |
| v. | : | AT HARTFORD |
| MICHAEL JOYCE, M.D. and/or his servants, agents, apparent agents and/or employees | : | |
| ERIK T. LIBBY, P.A. and/or his servants, agents, apparent agents and/or employees | : | |
| ORTHOPAEDIC SPORTS SPECIALISTS, P.C. and/or their servants, agents, apparent agents and/or employees | : | |
| AND/OR ANY OTHER HEALTH CARE PROVIDERS AND THEIR SERVANTS, AGENTS AND/OR EMPLOYEES | : | |
| AS YET TO BE DETERMINED | : | JULY 17, 2017 |

Pursuant to Connecticut General Statutes Section 52-190a(b), the undersigned hereby petitions for the AUTOMATIC ninety (90) day extension of the Statute of Limitations which will arguably expire on or about **OCTOBER 1, 2017**, regarding the course of treatment given to **PETER SOBIN (DECEASED)** and affecting **LINDA SOBIN** going back to the care rendered on or about **OCTOBER 1, 2015** to allow reasonable inquiry to determine that there was negligence in the care and treatment of **PETER SOBIN** by: **MICHAEL JOYCE, M.D. and/or his servants, agents, apparent agents and/or employees; ERIK T. LIBBY, P.A. and/or his servants, agents, apparent agents and/or employees; ORTHOPAEDIC SPORTS SPECIALISTS, P.C. and/or their servants, agents, apparent agents and/or employees; AND/OR ANY OTHER HEALTH CARE PROVIDERS AND THEIR SERVANTS, AGENTS AND/OR EMPLOYEES AS YET TO BE DETERMINED**

FILED

JUL 19 2017

HARTFORD J.D.

COUNSEL FOR THE PETITIONER,

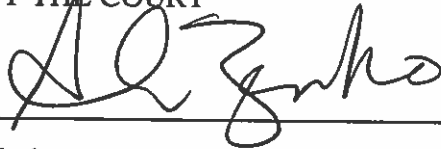


JOEL LICHTENSTEIN, ESQ.
KOSKOFF, KOSKOFF & BIEDER, P.C.
350 FAIRFIELD AVENUE
BRIDGEPORT, CONNECTICUT 06604
JURIS NO. 32250
TELE. NO. 203-336-4421

ORDER

The foregoing Petition having been presented to the Clerk of the Court pursuant to Connecticut General Statutes § 52-190a (b), it is hereby ordered that the statute of limitations be extended for ninety (90) days.

BY THE COURT



Clerk

Dated at HARTFORD, Connecticut, this 20th day of July 2017.